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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,445	07/25/2006	Dieter Ramsauer	135408-2035	5304

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745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

EXAMINER

MORGAN, EMILY M

ART UNIT	PAPER NUMBER
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3677

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08/04/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/587,445	Applicant(s) RAMSAUER, DIETER	
	Examiner EMILY MORGAN	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-36,38 and 40-58 is/are pending in the application.
- 4a) Of the above claim(s) 32,33,38,40,41,43-52 and 55-58 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30,31,34-36,42,53 and 54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2010 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 30, 31, 34-36, 42, 53, 54 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Examiner notes the inclusion of the key in the amendments 6/15/2011. Applicant has not disclosed that a key is used in holding element of figures 3a-3c, nor in the holding element of figure 19g. [0096] states that the key is applicable to the non elected holding element embodiment of figure 11a-d. Applicant asserts the inclusion of the key is supported in [0100]. Examiner notes that [0100] discloses multiple types of keys, however this does not support the use of a key with the "flat metal pieces" as claimed by applicant. Examiner contends that the mere election of an embodiment of a part does not necessarily make the use of the part applicable to the elected embodiment of the main article.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 3677

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 30, 31, 34-36, 42, 53, 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over patent 6286185 to Ramsauer, in view of patent 1538320 to Gullong, in further view of patent 3583736 to Willimzik.

Regarding claim 30, Ramsauer discloses:

A hinge (figure 1) comprising: at least one hinge part 12 which can be mounted in an opening in a thin wall such as a sheet-metal cabinet door (abstract); a head part, such as a flange or hinge leaf (hinge part 12 is a hinge leaf, column 4, line 66), which overlaps a rim of the opening of the thin wall on an outer side (figures 24, 11,22); a body part 240 (figures 11, 14) which proceeds from the head part (or leaf, figure 11) and can be pushed through the opening in the thin wall 160 (figure 11); and a holding part (nut 280) which is carried by the body part 240 (figure 11), supported on another rear side of the thin wall by article 280 (figure 11), and is separate from the body part 240, shown alone in figure 14. Ramsauer does not disclose the use of holding elements with inclined surfaces, or the rectangular opening.

Gullong discloses:

a head part 5, such as a flange, which overlaps a rim of the opening 2 of the thin wall on an outer side (figure 3); a body part 9 which proceeds from the head part 5 and can be pushed through the opening in the thin wall (figure 3); and a holding part (lugs 7) which is carried by the body part 9, supported on another rear side of the thin wall (figure 3), and is separate from the body part 5; said holding part 7 being formed by holding elements (lugs) which project in a resilient manner (via spring 11) from the body part 5 in the direction of its outer surface (figures 3 and 4) and whose free end has a second inclined surface which enables the holding part and the body part to be pushed through the opening, the inclined surface being inclined with respect to a plane of the thin wall (figure 3, the lugs 7 are triangularly shaped, so the lugs have two inclined surfaces). Gullong does not disclose two flat metal pieces.

Willimzik discloses:

An expanding latching device similar to that taught by Gullong, having holding elements 12 and 13 are formed by two flat metal pieces lying next to one another (figure 5) with smooth surfaces, each metal piece having a rectangular opening 21, these two openings or breakthroughs together forming a rectangular space (figure 6) which receives a spiral pressure spring 20 by at least a portion of its diameter (figure 5). Willimzik also discloses the two flat pieces 12 and 13 of the holding elements form projections 12 and recesses 26 which are *configured to be engaged by a rotatable tool*

Art Unit: 3677

or key (screwdriver) in such a way that the two flat pieces are displaced relative to one another against the spring force when the tool or key is turned.

It would have been obvious to one of ordinary skill in the art at the time of the invention to use an alternate attachment method as taught by Gullong to attach the hinge as taught by Ramsauer to the thin mounting material 160. Gullong is used to attach a decorative device to a thin piece of metal 1, as shown in figures 3 and 4. It would have been obvious to one of ordinary skill in the art to use a thin metal connecting device to connect any article to thin metal, such as that of Ramsauer. This would be similar to using a wood screw to attach something to wood, or a sheetrock screw to attach something to sheetrock. It also would have been obvious to one of ordinary skill in the art to use an alternate locking mechanism as taught by Willimzik in place of the locking mechanism as taught by Gullong. Both have two parts that expand from a central point, both have triangularly shaped extensions, both expand according to the spring between the two parts. Examiner contends that the two lugs 7 and the spring 11 of Gullong would behave exactly the same as the two plates 12 and 13 with the spring 22 as taught by Willimzik. Examiner notes that projections and recesses are present in Willimzik, and since the recess 26 allows "access to securing slot 6" (column 3, line 7), it is configured to allow a rotatable tool (such as a screwdriver, since a screw goes into the securing slot) to be engaged with the flat pieces.

Note that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex*

parte Masham, 2 USPQ2d 1647 (1987). Examiner contends that the italicized language above, and throughout this action, are considered intended use.

Regarding claim 31, Ramsauer as modified discloses the hinge according to Claim 30; wherein two holding elements (12 and 13 as taught by Willimzik) which are arranged diametrical to one another are provided and are acted upon by pressure elements such as spring arrangements 22, particularly a coil spring common to the two holding elements or two coil springs, or wedge arrangements such as conical screws (figure 5).

Regarding claim 34, Ramsauer as modified discloses the hinge according to Claim 30; wherein the holding elements (12 and 13 of Willimzik) are slides which are arranged so as to be displaceable in a channel (21 of figure 5) that lies parallel to the plane of the thin wall (figure 1) and is rectangular in cross section (figure 6) and are held against the force of a pressure spring 20 by a hook arrangement that locks between the slides themselves or in the channel.

Regarding claim 35, Ramsauer as modified discloses the hinge according to Claim 30; wherein the holding elements (12 and 13 of Willimzik) are slides of rigid material such as metal which are arranged so as to be displaceable in a channel that is parallel to the plane of the thin wall and rectangular in cross section and are held against the force of a pressure spring 20 (figure 1) by a pin arrangement that is arranged between them.

Regarding claim 36, Ramsauer as modified discloses the hinge according to Claim 34; wherein the channel has a partial dividing wall or undercut 21 or opening edge at which the slides are supported axially by a shoulder or hook (figure 2).

Regarding claim 42, Ramsauer as modified discloses the hinge according to claim 30, wherein the holding elements of Willimzik are formed by a metal piece or by two metal pieces lying next to one another which is/are held jointly by a spring in such a way that these two or three parts form a manageable unit that is stable in itself. These pieces are formed together in Willimzik (figure 2), and can be used as an attachment pin in another function.

Regarding claim 53, Ramsauer as modified discloses the hinge according to Claim 30; wherein a second hinge part (112 of Ramsauer) which is swivelably connected to the first hinge part has a construction analogous to that of the first hinge part (figure 1 of Ramsauer).

Regarding claim 54, Ramsauer as modified discloses the hinge according to Claim 30; wherein a second hinge part which is swivelably connected to the first hinge part. Ramsauer as modified does not disclose a second hinge part with differing construction from the first hinge part. It would have been obvious to one having ordinary skill in the art at the time the invention as made to alter the shape of one leaf of a hinge, a change in the shape of a prior art device is a design consideration within the skill of the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). This would be done in order to allow proper mounting to the hinged article, and would be altered as needed, according to available width, height, location of mounting holes, etc...

Response to Arguments

Examiner notes applicant's insistence that claim 42 has not been addressed.

Examiner has addressed claim 42 in the office action dated 2/18/2011.

Examiner notes applicant contends that the key is applicable to the flat pieces, however examiner, as stated above, finds no such support. In order to overcome the 112 rejection, applicant must prove support in the specification or drawings for the application of both the key and the flat pieces together, or to remove the key from the independent claim.

Examiner contends that the two flat pieces together are shown by Willimzik exactly as they are claimed by applicant. Since applicant asserted the support for the "flat pieces" is located in figure 19g, as asserted by applicant (please see interview summary mailed 7/16/2010). As such, applicant has shown no tool engagement recesses or projections in 19g, as shown below. However, examiner contends that Willimzik discloses the same structure with a recess to allow for the use of a tool, shown in figure 5 below.

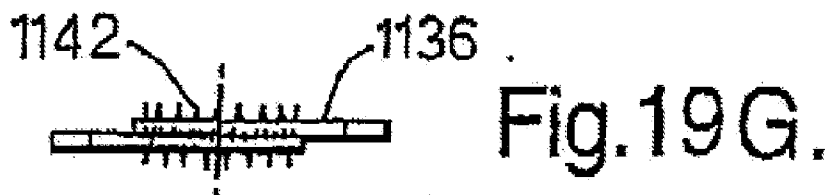
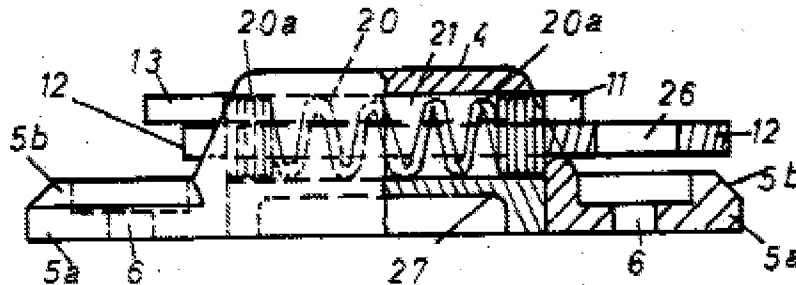


FIG. 5



Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EMILY MORGAN whose telephone number is (571)270-3650. The examiner can normally be reached on Monday-Thursday 7:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on (571)272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3677

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Victor Batson/
Supervisory Patent Examiner, Art Unit 3677

Emm
/EMM/